

United States District Court

EASTERN DISTRICT OF WISCONSIN

COURT MINUTES

HON. **DAVID E. JONES**, presiding.

Deputy Clerk: Katina Hubacz

DATE: **October 2, 2018 at 2:30 p.m.**

Court Reporter: Liberty

CASE NO. **18-CR-62**

Time Called: 2:43:21

UNITED STATES v. **BRIAN L. GANOS**,

Time Concluded: 3:05:07

MARK F. SPINDLER, SONAG COMPANY INC.,

NUVO CONSTRUCTION COMPANY, INC.

PROCEEDING: **STATUS CONFERENCE (COUNSEL ONLY)**

UNITED STATES by: **Matthew D. Krueger, Zachary J. Corey**

DEFENDANTS: **BRIAN L. GANOS, MARK F. SPINDLER,**

SONAG COMPANY INC., NUVO CONSTRUCTION COMPANY, INC., not present, and by

ATTORNEYS: **Marcus J. Berghahn for Brian L. Ganos**

Brian T. Fahl for Mark F. Spindler

Dean A. Strang for Sonag Company, Inc.

Mel Bjorkquist for Dennis P. Coffey for Nuvo Construction Company, Inc.

Randall Schneider for Movant State of Wisconsin

COURT:

- Doc 53 and 55 Motion to Quash - plan to enter an order denying these motions by the end of this week
- anticipate may file an appeal to the District Judge and do not want to hold up that process so plan to file a written opinion

GOVT:

- informs the Court an objection was filed yesterday based on Court's previous oral ruling

MR. STRANG:

- subpoena compliance - state has completed the work necessary for modified compliance agreed to
- wants to hold that information and not disclose it until there has been a ruling on the Govt's objections
- General L.R. 72(c)(2) - want Court to set different deadline - would request 10 days from when court enters written order
- Govt would then have 7 days to file a reply

- GOVT has no objection to this proposed time line
- COURT GRANTS Mr. Strang's request and will enter a separate text only order

MR. SCHNEIDER:

- don't have in possession but just got word that the analysis is done - have not seen it yet
- would prefer to not turn anything over until objection has been ruled on

COURT:

- GRANTS Mr. Schneider's request to STAY execution or compliance with subpoena until resolution of motion to quash and directs he does not need to comply with subpoena unless and until district judge rules on motion to quash

MR. STRANG:

- propose a way to make court's ruling operational - submitted 2 weeks ago a proposed order enforcing subpoena and limiting its scope - put in Sept 28 date
- propose court enter that proposed order but modify to say production shall be made within a few days after any order from the district court overruling objections/enforcing (production if required shall take place not later than 5 days after disposition of doc 53 and 55)
- Mr. Schneider has asked to draft certification of compliance - think is reasonable request and will draft, anticipatorily a certificate of compliance and will circulate to Govt and Mr. Schneider

GOVT:

- no objection to entering a proposed order
- would like to note yesterday was 14 days of oral ruling - didn't know status of state's situation at that point
- understanding of state's posture is that analysis of data is done but methodology used is not ready so are not ready to produce these records - unclear when would be ready

MR. SCHNEIDER:

- no objection to Court entering a proposed order
- confirms all analysis is done
- memorandum of methodology used to come up with graphs hasn't been done yet but not major undertaking
- request some type of certification so records would be admissible - that hasn't been done yet
- majority of work is done - just need to finish up paperwork
- would like to see a stipulation to have records be used without having a witness to authenticate them - don't want people being subpoenaed

MR. STRANG:

- certification now agreed to draft is just certification that state has complied with subpoenas as modified
- will draft something broader and will circulate before file - will expand to take into account not having state employees appear in court

- no discovery issues to report

COURT:

- direct Mr. Strang do what needs to do in regards to certification and work that out with Mr. Schneider

GOVT:

- nothing else to report

- proceeding with tentative February trial date

PARTIES agree another status conference is not necessary at this time.